

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	}	CHAPTER 13
	}	
ULRICA ANN BAILEY,	}	CASE NO. A16-54832-MGD
	}	
DEBTOR(S)	}	JUDGE DIEHL

MOTION TO DISMISS CASE WITH PREJUDICE

COMES NOW, Mary Ida Townson, Standing Chapter 13 Trustee in the above-styled matter, and files this Motion to Dismiss Case with Prejudice, respectfully showing the Court as follows:

1.

The Debtor filed for relief under Chapter 13 of Title 11 of the United States Code on March 16, 2016.

2.

Section 109(h), as added to the United States Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, requires that an individual obtain credit counseling within the 180-day period preceding the date of filing in order to be eligible for relief under Title 11 of the United States Code. 11 U.S.C. § 109(h).

3.

The above-referenced counseling must be obtained from a nonprofit budget and credit counseling agency approved by the United States Trustee and a certificate from the approved agency that provided the credit counseling must be filed with the Court. 11 U.S.C. §§ 111 and 521(b).

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4.

Section 109(h)(3) provides a waiver of the credit counseling requirement to individuals with exigent circumstances. 11 U.S.C. § 109(h)(3). To obtain this waiver, an individual must file a certification with the Court that:

- i. describes the exigent circumstances that merit a waiver;
- ii. states that he or she requested credit counseling services from an approved credit counseling agency, but was unable to obtain said services during the five-day period beginning on the date on which he or she made the request; and
- iii. is satisfactory to the Court.

5.

According to the Court's docket, neither a certificate from an approved agency nor a certificate of exigent circumstances has been filed with the Court.

6.

As the requirements of 11 U.S.C. Section 109(h) have not been met, the Debtor is not eligible for relief under Title 11 of the United States Code.

7.

Additionally, the Debtor has filed five (5) recent case(s), each of which was dismissed by the Court. Said case(s) are as follows:

- i. Debtor's first case, 12-63997, was filed on June 4, 2012 and dismissed on July 31, 2012.

- ii. Debtor's second case, 12-69797, was filed on August 6, 2012 and dismissed on August 21, 2013.
- iii. Debtor's third case, 13-70156, was filed on September 13, 2013 and dismissed on January 16, 2014.
- iv. Debtor's fourth case, Chapter 7, 14-71280, was filed on October 29, 2014 and dismissed on November 10, 2014.
- v. Debtor's fifth case, 16-50060, was filed on January 4, 2016 and dismissed on January 20, 2016.

8.

The Debtor's conduct in this and the previous cases demonstrates that the Debtor has filed this case without any intention of properly prosecuting this case and has failed to appear before the Court in proper prosecution of this case within the meaning of 11 U.S.C. Section 109(g).

WHEREFORE, based on the foregoing, the Trustee respectfully requests the Court inquire into the foregoing, dismiss the instant case pursuant to 11 U.S.C. Section 105(a) and Section 109(g), thereby rendering the Debtor ineligible from re-filing another Chapter 13 case for one hundred eighty (180) days; or in the alternative, convert this case to one under Chapter 7.

Respectfully submitted this 30th day of March, 2016.

/s/
K. Edward Safir
Attorney for the Chapter 13 Trustee
GA Bar No. 622149

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DEBTOR(S)	}	JUDGE DIEHL

NOTICE OF HEARING ON MOTION TO DISMISS CASE WITH PREJUDICE

PLEASE TAKE NOTICE that the Chapter 13 Trustee has filed a Motion to Dismiss Case with Prejudice.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on **April 27, 2016 at 10:00 a.m. in Courtroom 1201, United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, GA 30303.**

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one). If you do not want the Court to grant the relief sought in these pleadings or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including address) you served the response. Mail or deliver your response so that it is received by the Clerk at least two (2) business days before the hearing. The address of the Clerk's Office is **Clerk, U.S. Bankruptcy Court, 75 Ted Turner Drive, S.W., Atlanta, Georgia 30303.** You must also mail a copy of your request to the undersigned at the address stated below.

/s/
K. Edward Safir
Attorney for the Chapter 13 Trustee
GA Bar No. 622149

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CERTIFICATE OF SERVICE

This is to certify that I have this day served

DEBTOR, PRO SE:

Ulrica Ann Bailey
4394 Estate Street
College Park, GA 30349

in the foregoing matter with a copy of this pleading by depositing same in the United States Mail in a properly addressed envelope with adequate postage thereon.

This 30th day of March, 2016.

_____/s/
K. Edward Safir
Attorney for the Chapter 13 Trustee
GA Bar No. 622149

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